

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,)	
)	Nos. CR-03-0188-LRS
Respondent,)	(CV-06-0091-LRS)
)	
-vs-)	
)	ORDER RE 28 U.S.C. §2255
CARLOS CARVAJAL-COSTA,)	MOTION
)	
Movant.)	

BEFORE THE COURT is Carlos Carvajal Costa's second 28 U.S.C. § 2255 Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody. The motion is submitted by Carlos Carvajal-Costa, who is appearing *pro se* for the purposes of these proceedings. The Movant's first 28 U.S.C. § 2255 Motion to Vacate, Set Aside, or Correct Sentence was adjudicated on the merits and denied. See April 29, 2005 Order Denying Motion to Vacate, Correct or Set Aside Sentence (Ct. Rec. 26).

A second or successive petition may not be filed in this court unless the petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this court to consider the petition. 28 U.S.C. § 2244(b)(3)(A).

In order to receive approval to proceed on a second motion, the petitioner must show:

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1 (1) Newly discovered evidence that, if proven and viewed in light
2 of the evidence as a whole, would be sufficient to establish by clear and
3 convincing evidence that no reasonable factfinder would have found the
4 movant guilty of the offense; or

5 (2) A new rule of constitutional law, made retroactive to cases on
6 collateral review by the Supreme Court, that was previously unavailable.
7 28 U.S.C. §2255.

8 Petitioner's motion is hereby **DENIED**.

9 **IT IS SO ORDERED.** The District Executive shall forward copies of
10 this order to the Defendant and to the Clerk of the Court for the Ninth
11 Circuit Court of Appeals.

12 **DATED** this 14th day of June, 2006.

13 ***s/Lonny R. Suko***

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15 LONNY R. SUKO
16 UNITED STATES DISTRICT JUDGE
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